

107TH CONGRESS
2D SESSION

S. 2609

To require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2002

Mr. LEAHY (for himself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Contact Lens Prescrip-
5 tion Release Act of 2002”.

6 **SEC. 2. PRESCRIPTIONS FOR CONTACT LENSES.**

7 (a) AVAILABILITY OF CONTACT LENS PRESCRIPTION
8 INFORMATION.—No later than 9 months after the date

1 of enactment of this Act, the Federal Trade Commission
2 shall promulgate a rule under section 553 of title 5,
3 United States Code, to require that a prescriber shall,
4 upon completion of the contact lens fitting process for a
5 patient—

6 (1) provide to the patient a copy of the pre-
7 scriber's prescription for contact lenses, regardless
8 of whether or not the patient requests such a copy;
9 and

10 (2) upon request of the patient or an agent of
11 the patient—

12 (A) provide a copy of such a prescription
13 to the patient or an agent of the patient; or

14 (B) promptly verify to an agent of the pa-
15 tient, including by electronic means, the infor-
16 mation contained in such a prescription.

17 (b) EXPIRATION OF PRESCRIPTION.—The rule pro-
18 mulgated under subsection (a) shall also provide that any
19 contact lens prescription shall expire—

20 (1) except as provided in paragraph (2), on the
21 later of—

22 (A) the date, if any, provided by the laws
23 of the State that issued the license under the
24 authority of which the prescription is issued; or

1 (B) a date that shall be prescribed by the
2 Commission in the rule; or

3 (2) on any expiration date specified by the pre-
4 scriber that is different than the date that applies
5 under paragraph (1) and that is based on the med-
6 ical judgment of the prescriber with respect to the
7 patient's ocular health.

8 (c) VIOLATIONS.—Any violation of a rule promul-
9 gated under this section shall be treated as a violation of
10 a rule under section 18 of the Federal Trade Commission
11 Act (15 U.S.C. 57a) regarding unfair or deceptive acts
12 or practices.

13 **SEC. 3. REQUIREMENTS APPLICABLE TO INDUSTRY MEM-**
14 **BERS.**

15 (a) CONTENT OF ADVERTISEMENTS AND SALES
16 PRESENTATIONS.—No later than 9 months after the date
17 of enactment of this Act, the Federal Trade Commission
18 shall promulgate a rule under section 553 of title 5,
19 United States Code, to make it an unfair or deceptive act
20 or practice for any industry member to publish, or cause
21 to be published, any advertisement or sales presentation
22 relating to contact lenses that represents, directly or by
23 implication, that contact lenses may be obtained without
24 a valid prescription.

25 (b) PRESCRIPTION REQUIREMENT.—

1 (1) IN GENERAL.—The rule promulgated under
2 this section shall—

3 (A) prohibit selling contact lenses to a con-
4 sumer unless the seller—

5 (i) obtains a copy of an unexpired pre-
6 scription; or

7 (ii) verifies the prescription in accord-
8 ance with paragraph (2); and

9 (B) require a seller of contact lenses to—

10 (i) record notifications made pursuant
11 to paragraph (2)(B) and the responses to
12 such notifications; and

13 (ii) preserve such records for a period
14 of time prescribed by the Commission.

15 (2) PRESCRIPTION VERIFICATION.—The rule
16 promulgated under this section shall provide that a
17 prescription shall be considered verified for purposes
18 of paragraph (1)(A) if the seller—

19 (A) notifies the prescriber that the patient
20 or an agent of the patient seeks contact lenses
21 from the seller; and

22 (B) gives the prescriber a sufficient oppor-
23 tunity (as prescribed in the rule) to correct any
24 errors in the prescription.

1 (c) VIOLATIONS.—Any violation of a rule promul-
 2 gated under this section shall be treated as a violation of
 3 a rule under section 18 of the Federal Trade Commission
 4 Act (15 U.S.C. 57a) regarding unfair or deceptive acts
 5 or practices.

6 **SEC. 4. EFFECT ON STATE LAW.**

7 This Act and the regulations issued under this Act
 8 shall not affect any State law that regulates who is author-
 9 ized to fit contact lenses.

10 **SEC. 5. DEFINITIONS.**

11 For purposes of this Act:

12 (1) COMMISSION.—The term “Commission”
 13 means the Federal Trade Commission.

14 (2) COMPLETION OF THE CONTACT LENS FIT-
 15 TING PROCESS.—The term “completion of the con-
 16 tact lens fitting process” means completion of the
 17 process that—

18 (A) begins after the initial eye examina-
 19 tion;

20 (B) includes—

21 (i) an examination to determine what
 22 the lens specifications should be;

23 (ii) except in the case of a renewal of
 24 a prescription, an initial evaluation of the
 25 fit of the lens on the patient’s eye; and

1 (iii) followup examinations that are
 2 medically necessary; and

3 (C) ends when—

4 (i) except in the case of a renewal of
 5 a prescription, the prescriber is satisfied
 6 that a successful fit has been achieved; or

7 (ii) in the case of a renewal of a pre-
 8 scription, the prescriber determines that
 9 there is no change in the prescription.

10 (3) INDUSTRY MEMBER.—The term “industry
 11 member” means a person that engages in the manu-
 12 facture, processing, assembly, sale, offering for sale,
 13 or distribution of contact lenses.

14 (4) PRESCRIBER.—The term “prescriber”
 15 means an ophthalmologist or optometrist who per-
 16 forms eye examinations under a license issued by a
 17 State.

18 (5) PRESCRIPTION.—The term “prescription”
 19 means the specifications necessary for a patient to
 20 obtain contact lenses, that include—

21 (A) all parameters of the contact lenses
 22 that are necessary to allow duplication of the
 23 lenses;

24 (B) a clear notation that the patient is
 25 suitable for contact lenses;

1 (C) the patient's name;

2 (D) the date of the examination on which
3 the prescription is based;

4 (E) the date the prescription is issued;

5 (F) the name, postal address, voice tele-
6 phone number, and facsimile telephone number
7 of the prescriber that issues the prescription;
8 and

9 (G) the date on which the prescription ex-
10 pires.

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